

**REPORT OF THE INTERSCHOLASTIC COMMISSION ON ATHLETICS  
AS REQUESTED BY THE  
KENTUCKY BOARD OF EDUCATION**

**Introduction**

At the April 2007 Kentucky Board of Education meeting, the Kentucky Board of Education approved the creation of the Commission on Interscholastic Athletics with the following charge:

“WHEREAS, the Kentucky High School Athletic Association (KHSAA) has acted as the agent of the Kentucky Board of Education for several years in matters relating to high school athletics, it is the responsibility of the board to periodically review and monitor this entity’s operation. In fulfillment of this responsibility, the Kentucky Board of Education (KBE) in 1993 appointed a Commission on Interscholastic Athletics to study optimum methods and best practices to deliver quality high school interscholastic athletic programs. The Kentucky Board of Education reestablishes a Commission on Interscholastic Athletics charged with the responsibility of reviewing the operational efficiency of the Kentucky High School Athletic Association. This review shall include, but is not limited to, an examination of the following issues:

- Are business practices conducted efficiently?
- Are existing bylaws monitored and enforced?
- Is the amount expended for legal services appropriate and reasonable?
- Are eligibility rulings and appeals addressed promptly and consistently?
- What is the role of eligibility hearing officers? Does the Board of Control usually accept their findings?
- Review the relationship with the KHSAA to the court system. Are Orders of the Court being appropriately addressed?”

The Commission on Interscholastic Athletics consists of seven (7) members, one (1) appointed from each of the Kentucky Supreme Court Judicial Districts. The Commission may report its findings periodically to the Kentucky Board of Education but is expected to provide a summary by the end of the calendar year.

In June 2007, the Kentucky Board of Education approved the appointment of the following persons to the Commission:

- Judicial District 1 - James Kenneth Shadowen - Benton, KY
- Judicial District 2 - Thomas E. Gumm - Glasgow, KY
- Judicial District 3 - Jane Adams Venters - Somerset, KY
- Judicial District 4 - Sherron A. Hoehler Gambert - Louisville, KY
- Judicial District 5 - Harvey D. Thompson - Lexington, KY

- Judicial District 6 - Brenda Jackson - Shelbyville, KY
- Judicial District 7- Dr. Zella Wells - Paintsville, KY (Note: Dr. Wells resigned in November due to a possible conflict of interest on an athletic issue between the school district where she works and the Kentucky High School Athletic Association.)

### **Work of the Commission on Interscholastic Athletics**

The Commission on Interscholastic Athletics met six times in 2007 on July 12, August 7, September 11, October 16, November 19 and December 3 to carry out its charge from the Kentucky Board of Education. In addition to the items that the Commission was to review listed within the charge above, it generated the following items to examine and looked at data relative to each:

- Examine the composition and number of members on the Board of Control.
- Look at standards for athletic eligibility relative to academic qualifications.
- Determine if existing bylaws are enforced accurately and consistently.
- Examine the meeting schedule of the Board of Control and their involvement in athletic appeals.
- Look at how long students are adversely affected from the beginning of an appeal until the ruling.
- Examine the fairness of how temporary injunctive relief is currently applied.
- Look at the consistency of appeal decisions and their enforcement.
- Examine how the transfer bylaw has changed since 1990.
- Look at whether the appeals process is user-friendly to families.
- Examine whether there is any pattern in the election of voting members for member schools.
- Look at the process of how catastrophic insurance is made available to schools.
- Request that KHSAA bring forward:
  - the hourly rates of their attorney, the amount of retainers and the fees/expenses related to attorney travel as well as an indication of how much legal advice is for the purpose of advice/meetings versus court proceedings
  - the management letters for the 2005 and 2006 audits
  - a random selection of hearing officer decisions and motions by the Board of Control relative to appeals
  - information on how other states handle athletic appeals and on the make-up of their Board of Control or whatever the governance structure may be

Staff of the Kentucky High School Athletic Association attended each meeting and served as a resource to the Commission. Kentucky Department of Education staff that served to accomplish the work of the Commission and as resources to the group were Interim Commissioner Kevin M. Noland, Policy Advisor Mary Ann Miller and Division Director Michael Dailey.

A public hearing was held in conjunction with the October 16 meeting. Both oral and written comments were accepted. (See Attachment A, Summary of Public Hearing

Comments.) These comments were taken into consideration as the Commission drafted its findings/recommendations.

### **Findings/Recommendations**

After several months of deliberation and review of data, the Commission formulated findings/recommendations in the following areas:

#### ***General Business Practices***

After a review of audits, management letters and the *KHSAA Financial Policies and Procedures Manual*, it appears that the business practices of KHSAA are conducted efficiently.

#### ***Board of Control Membership***

No change is recommended in the number, configuration or term limits of the KHSAA Board of Control. The Commission does recommend that superintendent participation on the Board of Control be encouraged and that the Kentucky Board of Education keep this topic on the radar in the future to see if change is merited.

#### ***Athletic Appeals***

- The Commission noted that the available case data did not demonstrate an inconsistent or inappropriate pattern as to eligibility rulings. However, the data did support that the rulings on student athletic eligibility should be handled through a revised process designed to reduce the time it takes to handle appeals and make the process more user-friendly to affected families. The revised process would consist of the following steps:
  - The request for a ruling of eligibility would come in from the school or a parent/legal guardian to a KHSAA Compliance Officer, who would promptly make a ruling on whether a student is eligible.
  - If the student is ruled ineligible, an appeal could be filed with KHSAA and it would be heard by a Hearing Officer, who would issue findings of fact and recommendations that would go to the KHSAA commissioner.
  - The KHSAA commissioner would promptly review the Hearing Officer's findings of fact and recommendations and confirm these unless evidence exists that the Hearing Officer's ruling violates the law or is incorrect.
  - If a party does not agree with the ruling, then an appeal can proceed on to the court system.

The KHSAA Board of Control would be taken out of involvement in the appeals process, which reduces the amount of time it takes to get the final ruling because the student will no longer be waiting for the Board of Control to meet on appeals. Also, this will reduce the number of required meetings for the Board of Control and thus reduce expenses.

- If through the revised process described above for determining eligibility, the Hearing Officer finds the student eligible, the student should be eligible to play pending the KHSAA commissioner's decision.
- The KHSAA Board of Control should review the implementation of the new appeals process at least annually.
- KHSAA needs to implement ongoing member education to ensure prompt eligibility determinations. Principals and athletic directors must be aware of the need to file requests for eligibility rulings by certain dates in order for the requests to come in and be processed before the sports season in which the student is involved.
- Parent education/communication should be increased on the front end of the athletic process to assist in reducing the number of athletic appeals.
- No change is recommended on the risk of school sanctions for playing a student during judicial review.

#### ***Accurate and Consistent Enforcement of Existing Bylaws***

Based on the information received by the Commission, no inconsistent patterns of enforcement were evident. Without going through every case file, the Commission cannot speak further on this matter. It is believed that the recommended streamlined appeals process will result in improved credibility.

#### ***Recruiting Concerns***

The Board of Control's subcommittee that has been formed to continue looking at public/nonpublic athletic issues should explore improved standards and processes under Bylaw 10 for addressing recruiting concerns and the KHSAA should report progress from this study to the Kentucky Board of Education.

#### ***Catastrophic insurance***

The current process should continue.

#### ***Audits***

KHSAA should issue a Request for Proposals for an auditor every five years and periodically rotate the choice of public accounting firms.

#### ***Standards for Athletic Eligibility Relative to Academic Standards***

No change in Bylaw 5 should occur; however, the ability to set a higher standard by the school council for athletic participation should be included in the training of councils and KHSAA should communicate with the Kentucky Association of School Councils about this matter.

### ***Legal Assistance***

For the purpose of cost containment, KHSAA should employ a **full-time**, in-house counsel for the majority of legal issues and access external legal representation when needed.

### ***Bylaw 4, Enrollment***

The KHSAA Board of Control should review Bylaw 4, Enrollment, to ensure that it is equitable for all students.

### **Conclusion**

The Commission on Interscholastic Athletics thanks everyone who contributed to its study and respectfully requests the Kentucky Board of Education to consider and implement its recommendations.

### **Attached Exhibits**

Attachment A, Summary of Public Hearing Comments

Attachment B, July 12 Summary Minutes of the Commission on Interscholastic Athletics

Attachment C, August 7, Summary Minutes of the Commission on Interscholastic Athletics

Attachment D, September 11 Summary Minutes of the Commission on Interscholastic Athletics

Attachment E, October 16 Summary Minutes of the Commission on Interscholastic Athletics

Attachment F, November 19 Summary Minutes of the Commission on Interscholastic Athletics

Attachment G, December 3 Summary Minutes of the Commission on Interscholastic Athletics